IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

CRL.A.No. 172 of 2001()

CC.380/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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APPELLANT:

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1. NADUVALLIYIL KELOTH CHITHRA,
D/O.LATE SUSHEELA,
'SURABI', TEMPLE GATE,
THALASSERY, KANNUR.

2. NADUVALLIYIL KELOTH RATHEESH KUMAR,
S/O. LATE SUSHEELA,
'SURABI', TEMPLE GATE,
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:

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1. K.KOUSU, W/O.LATE NARAYANAN,
RESIDING AT VAILALOM,
NEAR MANNOLIKAVU, KODIYERI,
THALASSERY TALUK, KANNUR DISTRICT.

2. SON BALU ALIAS VIJAYAN,
AUTO DRIVER, RESIDING AT VAILALAM,
NEAR MANNOLIKAVU,
KODEYERI AMSOM,
THALASSERY TALUK, KANNUR DISTRICT.

3. BROTHER PRAKASHAN,
PLUMBER, RESIDING AT VAILALAM,
NEAR MANNOLIKKAVU, KODEYERI AMSOM,
THALASSERY TALUK, KANNUR DISTRICT.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.172 of 2001(C)

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Dated this the 23rd day of October, 2007

J U D G M E N T

The appellants are the legal representatives of the deceased complainant in C.C.No.380/2000 in the file of the Judicial Magistrate of the First Class, Thalassery, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/s to further pursue the matter and dispose of the case on merits. The appellant/s shall appear before the court below on 27/11/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

Sd/-
K.R.UDAYABHANU,
Judge

ms

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P.A.to Judge